HOUSE AMENDMENT

750-134AX-22 Bill No. CS/HB 1535, 1st Eng.

Amendment No. ___ (for drafter's use only)

CHAMBER ACTION

Senate House

ORIGINAL STAMP BELOW

Representative(s) Bennett offered the following:

Amendment (with title amendment)

On page 70, between lines 10 and 11, of the bill

insert:

Section 32. Subsection (1) of section 163.3174, Florida Statutes, is amended to read:

163.3174 Local planning agency.--

(1) The governing body of each local government, individually or in combination as provided in s. 163.3171, shall designate and by ordinance establish a "local planning agency," unless the agency is otherwise established by law. Notwithstanding any special act to the contrary, all local planning agencies or equivalent agencies that first review rezoning and comprehensive plan amendments in each municipality and county shall include a representative of the school district appointed by the school board as a nonvoting member of the local planning agency or equivalent agency to attend those meetings at which the agency considers comprehensive plan amendments and rezonings that would, if

approved, increase residential density on the property that is the subject of the application. However, this subsection does not prevent the governing body of the local government from granting voting status to the school board member.The governing body may designate itself as the local planning agency pursuant to this subsection with the addition of a nonvoting school board representative. The governing body shall notify the state land planning agency of the establishment of its local planning agency. All local planning agencies shall provide opportunities for involvement by ~~district school boards and~~ applicable community college boards, which may be accomplished by formal representation, membership on technical advisory committees, or other appropriate means. The local planning agency shall prepare the comprehensive plan or plan amendment after hearings to be held after public notice and shall make recommendations to the governing body regarding the adoption or amendment of the plan. The agency may be a local planning commission, the planning department of the local government, or other instrumentality, including a countywide planning entity established by special act or a council of local government officials created pursuant to s. 163.02, provided the composition of the council is fairly representative of all the governing bodies in the county or planning area; however:

(a) If a joint planning entity is in existence on the effective date of this act which authorizes the governing bodies to adopt and enforce a land use plan effective throughout the joint planning area, that entity shall be the agency for those local governments until such time as the authority of the joint planning entity is modified by law.

(b) In the case of chartered counties, the planning

responsibility between the county and the several municipalities therein shall be as stipulated in the charter.

Section 33. Section 163.31776, Florida Statutes, is created to read:

163.31776 Public schools interlocal agreement.--

(1)(a) The county and municipalities located within the geographic area of a school district shall enter into an interlocal agreement with the district school board which jointly establishes the specific ways in which the plans and processes of the district school board and the local governments are to be coordinated. The interlocal agreements shall be submitted to the state land planning agency and the Office of Educational Facilities and the SMART Schools Clearinghouse in accordance with a schedule published by the state land planning agency.

(b) The schedule must establish staggered due dates for submission of interlocal agreements that are executed by both the local government and the district school board, commencing on March 1, 2003, and concluding by December 1, 2004, and must set the same date for all governmental entities within a school district. The schedule must begin with those areas where both the number of districtwide capital-outlay full-time-equivalent students equals 80 percent or more of the current year's school capacity and the projected 5-year student growth is 1,000 or greater, or where the projected 5-year student growth rate is 10 percent or greater.

(c) If the student population has declined over the 5-year period preceding the due date for submittal of an interlocal agreement by the local government and the district school board, the local government and the district school board may petition the state land planning agency for a waiver

of one or more requirements of subsection (2). The waiver must be granted if the procedures called for in subsection (2) are unnecessary because of the school district's declining school age population, considering the district's 5-year facilities work program prepared pursuant to s. 235.185. The state land planning agency may modify or revoke the waiver upon a finding that the conditions upon which the waiver was granted no longer exist. The district school board and local governments must submit an interlocal agreement within 1 year after notification by the state land planning agency that the conditions for a waiver no longer exist.

(d) Interlocal agreements between local governments and district school boards adopted pursuant to s. 163.3177 before the effective date of this section must be updated and executed pursuant to the requirements of this section, if necessary. Amendments to interlocal agreements adopted pursuant to this section must be submitted to the state land planning agency within 30 days after execution by the parties for review consistent with this section. Local governments and the district school board in each school district are encouraged to adopt a single interlocal agreement in which all join as parties. The state land planning agency shall assemble and make available model interlocal agreements meeting the requirements of this section and notify local governments and, jointly with the Department of Education, the district school boards of the requirements of this section, the dates for compliance, and the sanctions for noncompliance. The state land planning agency shall be available to informally review proposed interlocal agreements. If the state land planning agency has not received a proposed interlocal agreement for informal review, the state land planning agency shall, at

least 60 days before the deadline for submission of the executed agreement, renotify the local government and the district school board of the upcoming deadline and the potential for sanctions.

(2) At a minimum, the interlocal agreement must address the following issues:

(a) A process by which each local government and the district school board agree and base their plans on consistent projections of the amount, type, and distribution of population growth and student enrollment. The geographic distribution of jurisdictionwide growth forecasts is a major objective of the process.

(b) A process to coordinate and share information relating to existing and planned public school facilities, including school renovations and closures, and local government plans for development and redevelopment.

(c) Participation by affected local governments with the district school board in the process of evaluating potential school closures, significant renovations to existing schools, and new school site selection before land acquisition. Local governments shall advise the district school board as to the consistency of the proposed closure, renovation, or new site with the local comprehensive plan, including appropriate circumstances and criteria under which a district school board may request an amendment to the comprehensive plan for school siting.

(d) A process for determining the need for and timing of onsite and offsite improvements to support new construction, proposed expansion, or redevelopment of existing schools. The process must address identification of the party or parties responsible for the improvements.

(e) A process for the school board to inform the local government regarding school capacity. The capacity reporting must be consistent with laws and rules relating to measurement of school facility capacity and must also identify how the district school board will meet the public school demand based on the facilities work program adopted pursuant to s. 235.185.

(f) Participation of the local governments in the preparation of the annual update to the district school board's 5-year district facilities work program and educational plant survey prepared pursuant to s. 235.185.

(g) A process for determining where and how joint use of either school board or local government facilities can be shared for mutual benefit and efficiency.

(h) A procedure for the resolution of disputes between the district school board and local governments, which may include the dispute-resolution processes contained in chapters 164 and 186.

(i) An oversight process, including an opportunity for public participation, for the implementation of the interlocal agreement.

A signatory to the interlocal agreement may elect not to include a provision meeting the requirements of paragraph (e); however, such a decision may be made only after a public hearing on such election, which may include the public hearing in which a district school board or a local government adopts the interlocal agreement. An interlocal agreement entered into pursuant to this section must be consistent with the adopted comprehensive plan and land development regulations of any local government that is a signatory.

(3)(a) The Office of Educational Facilities and SMART

Schools Clearinghouse shall submit any comments or concerns regarding the executed interlocal agreement to the state land planning agency within 30 days after receipt of the executed interlocal agreement. The state land planning agency shall review the executed interlocal agreement to determine whether the agreement is consistent with the requirements of subsection (2), the adopted local government comprehensive plan, and other requirements of law. Within 60 days after receipt of an executed interlocal agreement, the state land planning agency shall publish a notice of intent in the Florida Administrative Weekly and shall post a copy of the notice on the agency's Internet site. The notice of intent must state whether the interlocal agreement is consistent or inconsistent with the requirements of subsection (2) and this subsection, as appropriate.

(b) The state land planning agency's notice is subject to challenge under chapter 120; however, an affected person, as defined in s. 163.3184(1)(a), has standing to initiate the administrative proceeding and this proceeding is the sole means available to challenge the consistency of an interlocal agreement required by this section with the criteria contained in subsection (2) and this subsection. In order to have standing, each person must have submitted oral or written comments, recommendations, or objections to the local government or the school board before the adoption of the interlocal agreement by the school board and local government. The district school board and local governments are parties to any such proceeding. In such proceeding, when the state land planning agency finds the interlocal agreement to be consistent with the criteria in subsection (2) and this subsection, the interlocal agreement shall be determined to be

consistent with subsection (2) and this subsection if the local government's and school board's determination of consistency is fairly debatable. When the state planning agency finds the interlocal agreement to be inconsistent with the requirements of subsection (2) and this subsection, the local government's and school board's determination of consistency shall be sustained unless it is shown by a preponderance of the evidence that the interlocal agreement is inconsistent.

(c) If the state land planning agency enters a final order that finds that the interlocal agreement is inconsistent with the requirements of subsection (2) or this subsection, the state land planning agency shall forward the agreement to the Administration Commission, which may impose sanctions against the local government pursuant to s. 163.3184(11) and may impose sanctions against the district school board by directing the Department of Education to withhold from the district school board an equivalent amount of funds for school construction available pursuant to s. 235.187, s. 235.216, s. 235.2195, or s. 235.42.

(4) If an executed interlocal agreement is not timely submitted to the state land planning agency for review, the state land planning agency shall, within 15 working days after the deadline for submittal, issue to the local government and the district school board a notice to show cause why sanctions should not be imposed for failure to submit an executed interlocal agreement by the deadline established by the agency. The agency shall forward the notice and the responses to the Administration Commission, which may enter a final order citing the failure to comply and imposing sanctions against the local government and district school board by

directing the appropriate agencies to withhold at least 5 percent of state funds pursuant to s. 163.3184(11) and by directing the Department of Education to withhold from the district school board at least 5 percent of funds for school construction available pursuant to s. 235.187, s. 235.216, s. 235.2195, or s. 235.42.

(5) Any local government transmitting a public school element to implement school concurrency pursuant to the requirements of s. 163.3180 before the effective date of this section is not required to amend the element or any interlocal agreement to conform with the provisions of this section if the element is adopted prior to or within 1 year after the effective date of this section and remains in effect.

(6) Except as provided in subsection (7), municipalities having no established need for a new school facility and meeting the following criteria are exempt from the requirements of subsections (1), (2), and (3):

(a) The municipality has no public schools located within its boundaries.

(b) The district school board's 5-year facilities work program and the long-term 10-year and 20-year work programs, as provided in s. 235.185, demonstrate that no new school facility is needed in the municipality. In addition, the district school board must verify in writing that no new school facility will be needed in the municipality within the 5-year and 10-year timeframes.

(7) At the time of the evaluation and appraisal report, each exempt municipality shall assess the extent to which it continues to meet the criteria for exemption under subsection (6). If the municipality continues to meet these criteria and the district school board verifies in writing

that no new school facilities will be needed within the 5-year and 10-year timeframes, the municipality shall continue to be exempt from the interlocal-agreement requirement. Each municipality exempt under subsection (6) must comply with the provisions of this section within 1 year after the district school board proposes, in its 5-year district facilities work program, a new school within the municipality's jurisdiction.

Section 34. Subsections (1), (2), and (3) of section 235.19, Florida Statutes, are amended to read:

235.19 Site planning and selection.--

(1) Before acquiring property for sites, each board shall determine the location of proposed educational centers or campuses for the board. In making this determination, the board shall consider existing and anticipated site needs and the most economical and practicable locations of sites. The board shall coordinate with the long-range or comprehensive plans of local, regional, and state governmental agencies to assure the consistency ~~compatibility~~ of such plans ~~with site planning~~. Boards are encouraged to locate district educational facilities ~~schools~~ proximate to urban residential areas to the extent possible, and shall seek to collocate district educational facilities ~~schools~~ with other public facilities, such as parks, libraries, and community centers, to the extent possible, and to encourage using elementary schools as focal points for neighborhoods.

(2) Each new site selected must be adequate in size to meet the educational needs of the students to be served on that site by the original educational facility or future expansions of the facility through renovation or the addition of relocatables. ~~The Commissioner of Education shall prescribe by rule recommended sizes for new sites according to~~

~~categories of students to be housed and other appropriate factors determined by the commissioner. Less-than-recommended site sizes are allowed if the board, by a two-thirds majority, recommends such a site and finds that it can provide an appropriate and equitable educational program on the site.~~

(3) Sites recommended for purchase, or purchased, in accordance with chapter 230 or chapter 240 must meet standards prescribed therein and such supplementary standards as the commissioner prescribes to promote the educational interests of the students. Each site must be well drained and suitable for outdoor educational purposes as appropriate for the educational program or collocated with facilities to serve this purpose. As provided in s. 333.03, the site must not be located within any path of flight approach of any airport. Insofar as is practicable, the site must not adjoin a right-of-way of any railroad or through highway and must not be adjacent to any factory or other property from which noise, odors, or other disturbances, or at which conditions, would be likely to interfere with the educational program. To the extent practicable, sites must be chosen which will provide safe access from neighborhoods to schools.

Section 35. Section 235.193, Florida Statutes, is amended to read:

235.193 Coordination of planning with local governing bodies.--

(1) It is the policy of this state to require the coordination of planning between boards and local governing bodies to ensure that plans for the construction and opening of public educational facilities are facilitated and coordinated in time and place with plans for residential development, concurrently with other necessary services. Such

planning shall include the integration of the educational plant survey and applicable policies and procedures of a board with the local comprehensive plan and land development regulations of local governing bodies. The planning must include the consideration of allowing students to attend the school located nearest their homes when a new housing development is constructed near a county boundary and it is more feasible to transport the students a short distance to an existing facility in an adjacent county than to construct a new facility or transport students longer distances in their county of residence. The planning must also consider the effects of the location of public education facilities, including the feasibility of keeping central city facilities viable, in order to encourage central city redevelopment and the efficient use of infrastructure and to discourage uncontrolled urban sprawl. In addition, all parties to the planning process must consult with state and local road departments to assist in implementing the Safe Paths to Schools program administered by the Department of Transportation.

(2)(a) The school board, county, and nonexempt municipalities located within the geographic area of a school district shall enter into an interlocal agreement that jointly establishes the specific ways in which the plans and processes of the district school board and the local governments are to be coordinated. The interlocal agreements shall be submitted to the state land planning agency and the Office of Educational Facilities and the SMART Schools Clearinghouse in accordance with a schedule published by the state land planning agency.

(b) The schedule must establish staggered due dates

for submission of interlocal agreements that are executed by both the local government and the district school board, commencing on March 1, 2003, and concluding by December 1, 2004, and must set the same date for all governmental entities within a school district. The schedule must begin with those areas where both the number of districtwide capital-outlay full-time-equivalent students equals 80 percent or more of the current year's school capacity and the projected 5-year student growth is 1,000 or greater, or where the projected 5-year student growth rate is 10 percent or greater.

(c) If the student population has declined over the 5-year period preceding the due date for submittal of an interlocal agreement by the local government and the district school board, the local government and the district school board may petition the state land planning agency for a waiver of one or more of the requirements of subsection (3). The waiver must be granted if the procedures called for in subsection (3) are unnecessary because of the school district's declining school-age population, considering the district's 5-year facilities work program prepared pursuant to s. 235.185. The state land planning agency may modify or revoke the waiver upon a finding that the conditions upon which the waiver was granted no longer exist. The district school board and local governments must submit an interlocal agreement within 1 year after notification by the state land planning agency that the conditions for a waiver no longer exist.

(d) Interlocal agreements between local governments and district school boards adopted pursuant to s. 163.3177 before the effective date of this subsection and subsections (3)-(8) must be updated and executed pursuant to the

requirements of this subsection and subsections (3)-(8), if necessary. Amendments to interlocal agreements adopted pursuant to this subsection and subsections (3)-(8) must be submitted to the state land planning agency within 30 days after execution by the parties for review consistent with subsections (3) and (4). Local governments and the district school board in each school district are encouraged to adopt a single interlocal agreement in which all join as parties. The state land planning agency shall assemble and make available model interlocal agreements meeting the requirements of this subsection and subsections (3)-(8) and shall notify local governments and, jointly with the Department of Education, the district school boards of the requirements of this subsection and subsections (3)-(8), the dates for compliance, and the sanctions for noncompliance. The state land planning agency shall be available to informally review proposed interlocal agreements. If the state land planning agency has not received a proposed interlocal agreement for informal review, the state land planning agency shall, at least 60 days before the deadline for submission of the executed agreement, renotify the local government and the district school board of the upcoming deadline and the potential for sanctions.

(3) At a minimum, the interlocal agreement must address the following issues:

(a) A process by which each local government and the district school board agree and base their plans on consistent projections of the amount, type, and distribution of population growth and student enrollment. The geographic distribution of jurisdictionwide growth forecasts is a major objective of the process.

(b) A process to coordinate and share information

relating to existing and planned public school facilities, including school renovations and closures, and local government plans for development and redevelopment.

(c) Participation by affected local governments with the district school board in the process of evaluating potential school closures, significant renovations to existing schools, and new school site selection before land acquisition. Local governments shall advise the district school board as to the consistency of the proposed closure, renovation, or new site with the local comprehensive plan, including appropriate circumstances and criteria under which a district school board may request an amendment to the comprehensive plan for school siting.

(d) A process for determining the need for and timing of onsite and offsite improvements to support new construction, proposed expansion, or redevelopment of existing schools. The process shall address identification of the party or parties responsible for the improvements.

(e) A process for the school board to inform the local government regarding school capacity. The capacity reporting must be consistent with laws and rules regarding measurement of school facility capacity and must also identify how the district school board will meet the public school demand based on the facilities work program adopted pursuant to s. 235.185.

(f) Participation of the local governments in the preparation of the annual update to the school board's 5-year district facilities work program and educational plant survey prepared pursuant to s. 235.185.

(g) A process for determining where and how joint use of either school board or local government facilities can be shared for mutual benefit and efficiency.

(h) A procedure for the resolution of disputes between the district school board and local governments, which may include the dispute-resolution processes contained in chapters 164 and 186.

(i) An oversight process, including an opportunity for public participation, for the implementation of the interlocal agreement.

A signatory to the interlocal agreement may elect not to include a provision meeting the requirements of paragraph (e); however, such a decision may be made only after a public hearing on such election, which may include the public hearing in which a district school board or a local government adopts the interlocal agreement. An interlocal agreement entered into pursuant to this section must be consistent with the adopted comprehensive plan and land development regulations of any local government that is a signatory.

(4)(a) The Office of Educational Facilities and SMART Schools Clearinghouse shall submit any comments or concerns regarding the executed interlocal agreement to the state land planning agency within 30 days after receipt of the executed interlocal agreement. The state land planning agency shall review the executed interlocal agreement to determine whether the agreement is consistent with the requirements of subsection (3), the adopted local government comprehensive plan, and other requirements of law. Within 60 days after receipt of an executed interlocal agreement, the state land planning agency shall publish a notice of intent in the Florida Administrative Weekly and shall post a copy of the notice on the agency's Internet site. The notice of intent must state that the interlocal agreement is consistent or

inconsistent with the requirements of subsection (3) and this subsection as appropriate.

(b) The state land planning agency's notice is subject to challenge under chapter 120; however, an affected person, as defined in s. 163.3184(1)(a), has standing to initiate the administrative proceeding and this proceeding is the sole means available to challenge the consistency of an interlocal agreement required by this section with the criteria contained in subsection (3) and this subsection. In order to have standing, each person must have submitted oral or written comments, recommendations, or objections to the local government or the school board before the adoption of the interlocal agreement by the district school board and local government. The district school board and local governments are parties to any such proceeding. In such proceeding, when the state land planning agency finds the interlocal agreement to be consistent with the criteria in subsection (3) and this subsection, the interlocal agreement must be determined to be consistent with subsection (3) and this subsection if the local government's and school board's determination of consistency is fairly debatable. When the state land planning agency finds the interlocal agreement to be inconsistent with the requirements of subsection (3) and this subsection, the local government's and school board's determination of consistency shall be sustained unless it is shown by a preponderance of the evidence that the interlocal agreement is inconsistent.

(c) If the state land planning agency enters a final order that finds that the interlocal agreement is inconsistent with the requirements of subsection (3) or this subsection, the state land planning agency shall forward it to the

Administration Commission, which may impose sanctions against the local government pursuant to s. 163.3184(11) and may impose sanctions against the district school board by directing the Department of Education to withhold an equivalent amount of funds for school construction available pursuant to s. 235.187, s. 235.216, s. 235.2195, or s. 235.42.

(5) If an executed interlocal agreement is not timely submitted to the state land planning agency for review, the state land planning agency shall, within 15 working days after the deadline for submittal, issue to the local government and the district school board a notice to show cause why sanctions should not be imposed for failure to submit an executed interlocal agreement by the deadline established by the agency. The agency shall forward the notice and the responses to the Administration Commission, which may enter a final order citing the failure to comply and imposing sanctions against the local government and district school board by directing the appropriate agencies to withhold at least 5 percent of state funds pursuant to s. 163.3184(11) and by directing the Department of Education to withhold from the district school board at least 5 percent of funds for school construction available pursuant to s. 235.187, s. 235.216, s. 235.2195, or s. 235.42.

(6) Any local government transmitting a public school element to implement school concurrency pursuant to the requirements of s. 163.3180 before the effective date of this section is not required to amend the element or any interlocal agreement to conform with the provisions of subsections (2)-(5), this subsection, and subsections (7) and (8) if the element is adopted prior to or within 1 year after the effective date of subsections (2)-(5), this subsection, and

subsections (7) and (8) and remains in effect.

(7) Except as provided in subsection (8), municipalities having no established need for a new facility and meeting the following criteria are exempt from the requirements of subsections (2), (3), and (4):

(a) The municipality has no public schools located within its boundaries.

(b) The district school board's 5-year facilities work program and the long-term 10-year and 20-year work programs, as provided in s. 235.185, demonstrate that no new school facility is needed in the municipality. In addition, the district school board must verify in writing that no new school facility will be needed in the municipality within the 5-year and 10-year timeframes.

(8) At the time of the evaluation and appraisal report, each exempt municipality shall assess the extent to which it continues to meet the criteria for exemption under subsection (7). If the municipality continues to meet these criteria and the district school board verifies in writing that no new school facilities will be needed within the 5-year and 10-year timeframes, the municipality shall continue to be exempt from the interlocal-agreement requirement. Each municipality exempt under subsection (7) must comply with the provisions of subsections (2)-(7) and this subsection within 1 year after the district school board proposes, in its 5-year district facilities work program, a new school within the municipality's jurisdiction.

(9)~~(2)~~ A school board and the local governing body must share and coordinate information related to existing and planned public school facilities; proposals for development, redevelopment, or additional development; and infrastructure

required to support the public school facilities, concurrent with proposed development. A school board shall use information produced by the demographic, revenue, and education estimating conferences pursuant to s. 216.136 ~~Department of Education enrollment projections~~ when preparing the 5-year district facilities work program pursuant to s. 235.185, as modified and agreed to by the local governments, when provided by interlocal agreement, and the Office of Educational Facilities and SMART Schools Clearinghouse, in ~~and a school board shall affirmatively demonstrate in the educational facilities report~~ consideration of local governments' population projections, to ensure that the 5-year work program not only reflects enrollment projections but also considers applicable municipal and county growth and development projections. The projections must be apportioned geographically with assistance from the local governments using local government trend data and the school district student enrollment data. A school board is precluded from siting a new school in a jurisdiction where the school board has failed to provide the annual educational facilities report for the prior year required pursuant to s. 235.194 unless the failure is corrected.

(10)~~(3)~~ The location of public educational facilities shall be consistent with the comprehensive plan of the appropriate local governing body developed under part II of chapter 163 and consistent with the plan's implementing land development regulations~~, to the extent that the regulations are not in conflict with or the subject regulated is not specifically addressed by this chapter or the State Uniform Building Code, unless mutually agreed by the local government and the board~~.

(11)~~(4)~~ To improve coordination relative to potential educational facility sites, a board shall provide written notice to the local government that has regulatory authority over the use of the land consistent with an interlocal agreement entered into pursuant to subsections (2)-(8)at least 60 days prior to acquiring or leasing property that may be used for a new public educational facility. The local government, upon receipt of this notice, shall notify the board within 45 days if the site proposed for acquisition or lease is consistent with the land use categories and policies of the local government's comprehensive plan. This preliminary notice does not constitute the local government's determination of consistency pursuant to subsection(12)~~(5)~~.

(12)~~(5)~~ As early in the design phase as feasible and consistent with an interlocal agreement entered into pursuant to subsections (2)-(8), but no later than 90 days before commencing construction, the district school board shall in writing request a determination of consistency with the local government's comprehensive plan.~~but at least before commencing construction of a new public educational facility,~~ The local governing body that regulates the use of land shall determine, in writing within 45 ~~90~~ days after receiving the necessary information and a school board's request for a determination, whether a proposed public educational facility is consistent with the local comprehensive plan and consistent with local land development regulations~~, to the extent that the regulations are not in conflict with or the subject regulated is not specifically addressed by this chapter or the State Uniform Building Code, unless mutually agreed~~. If the determination is affirmative, school construction may commence ~~proceed~~ and further local government approvals are not

required, except as provided in this section. Failure of the local governing body to make a determination in writing within 90 days after a school board's request for a determination of consistency shall be considered an approval of the school board's application.

(13)~~(6)~~ A local governing body may not deny the site applicant based on adequacy of the site plan as it relates solely to the needs of the school. If the site is consistent with the comprehensive plan's ~~future~~ land use policies and categories in which public schools are identified as allowable uses, the local government may not deny the application but it may impose reasonable development standards and conditions in accordance with s. 235.34(1) and consider the site plan and its adequacy as it relates to environmental concerns, health, safety and welfare, and effects on adjacent property. Standards and conditions may not be imposed which conflict with those established in this chapter or the Florida ~~State Uniform~~ Building Code, unless mutually agreed and consistent with the interlocal agreement required by subsections (2)-(8).

(14)~~(7)~~ This section does not prohibit a local governing body and district school board from agreeing and establishing an alternative process for reviewing a proposed educational facility and site plan, and offsite impacts, pursuant to an interlocal agreement adopted in accordance with subsections (2)-(8).

(15)~~(8)~~ Existing schools shall be considered consistent with the applicable local government comprehensive plan adopted under part II of chapter 163. ~~The collocation of a new proposed public educational facility with an existing public educational facility, or the expansion of an existing public educational facility is not inconsistent with the local~~

~~comprehensive plan, if the site is consistent with the comprehensive plan's future land use policies and categories in which public schools are identified as allowable uses, and levels of service adopted by the local government for any facilities affected by the proposed location for the new facility are maintained.~~If a board submits an application to expand an existing school site, the local governing body may impose reasonable development standards and conditions on the expansion only, and in a manner consistent with s. 235.34(1). Standards and conditions may not be imposed which conflict with those established in this chapter or the Florida ~~State Uniform~~ Building Code, unless mutually agreed. Local government review or approval is not required for:

(a) The placement of temporary or portable classroom facilities; or

(b) Proposed renovation or construction on existing school sites, with the exception of construction that changes the primary use of a facility, includes stadiums, or results in a greater than 5 percent increase in student capacity, or as mutually agreed, pursuant to an interlocal agreement adopted in accordance with subsections (2)-(8).

Section 36. Nothing in sections 163.3174, 235.19, and 235.193, Florida Statutes, as amended by this act, and section 163.31776, Florida Statutes, as created by this act is intended to affect the outcome of any litigation pending as of the effective date of the act, including future appeals. It is further the intent of the Legislature that this act shall not serve as legal authority in support of any party to such litigation and appeals.

Section 37. The Legislature finds that the integration of the growth management system and the planning of public

educational facilities is a matter of great public importance.

Section 38. Section 163.3215, Florida Statutes, is amended to read:

163.3215 Standing to enforce local comprehensive plans through development orders.--

(1) Subsections (3) and (4) provide the exclusive methods for an aggrieved or adversely affected party to appeal and challenge the consistency of a development order with a comprehensive plan adopted under this part. The local government that issues the development order is to be named as a respondent in all proceedings under this section. Subsection (3) shall not apply to development orders for which a local government has established a process consistent with the requirements of subsection (4). A local government may decide which types of development orders will proceed under subsection (4). Subsection (3) shall apply to all other development orders that are not subject to subsection (4).

(2) As used in this section, the term "aggrieved or adversely affected party" means any person or local government that will suffer an adverse effect to an interest protected or furthered by the local government comprehensive plan, including interests related to health and safety, police and fire protection service systems, densities or intensities of development, transportation facilities, health care facilities, equipment or services, and environmental or natural resources. The alleged adverse interest may be shared in common with other members of the community at large but must exceed in degree the general interest in community good shared by all persons. The term includes the owner, developer, or applicant for a development order.

(3)~~(1)~~ Any aggrieved or adversely affected party may

maintain a de novo ~~an~~ action for declaratory, injunctive, or other relief against any local government to challenge any decision of such local government granting or denying an application for, or to prevent such local government from taking any action on, a development order, as defined in s. 163.3164, which materially alters the use or density or intensity of use on a particular piece of property which ~~that~~ is not consistent with the comprehensive plan adopted under this part. The de novo action must be filed no later than 30 days following rendition of a development order or other written decision, or when all local administrative appeals, if any, are exhausted, whichever occurs later.

~~(2) "Aggrieved or adversely affected party" means any person or local government which will suffer an adverse effect to an interest protected or furthered by the local government comprehensive plan, including interests related to health and safety, police and fire protection service systems, densities or intensities of development, transportation facilities, health care facilities, equipment or services, or environmental or natural resources. The alleged adverse interest may be shared in common with other members of the community at large, but shall exceed in degree the general interest in community good shared by all persons.~~

~~(3)(a) No suit may be maintained under this section challenging the approval or denial of a zoning, rezoning, planned unit development, variance, special exception, conditional use, or other development order granted prior to October 1, 1985, or applied for prior to July 1, 1985.~~

~~(b) Suit under this section shall be the sole action available to challenge the consistency of a development order with a comprehensive plan adopted under this part.~~

(4) If a local government elects to adopt or has adopted an ordinance establishing, at a minimum, the requirements listed in this subsection, the sole method by which an aggrieved and adversely affected party may challenge any decision of local government granting or denying an application for a development order, as defined in s. 163.3164, which materially alters the use or density or intensity of use on a particular piece of property, on the basis that it is not consistent with the comprehensive plan adopted under this part, is by an appeal filed by a petition for writ of certiorari filed in circuit court no later than 30 days following rendition of a development order or other written decision of the local government, or when all local administrative appeals, if any, are exhausted, whichever occurs later. An action for injunctive or other relief may be joined with the petition for certiorari. Principles of judicial or administrative res judicata and collateral estoppel apply to these proceedings. Minimum components of the local process are as follows:

(a) The local process must make provision for notice of an application for a development order that materially alters the use or density or intensity of use on a particular piece of property, including notice by publication or mailed notice consistent with the provisions of s. 166.041(3)(c)2.b. and c. and s. 125.66(4)(b)2. and 3., and must require prominent posting at the job site. The notice must be given within 10 days after the filing of an application for development order; however, notice under this subsection is not required for an application for a building permit or any other official action of local government which does not materially alter the use or density or intensity of use on a

particular piece of property. The notice must clearly delineate that an aggrieved or adversely affected person has the right to request a quasi-judicial hearing before the local government for which the application is made, must explain the conditions precedent to the appeal of any development order ultimately rendered upon the application, and must specify the location where written procedures can be obtained that describe the process, including how to initiate the quasi-judicial process, the timeframes for initiating the process, and the location of the hearing. The process may include an opportunity for an alternative dispute resolution.

(b) The local process must provide a clear point of entry consisting of a written preliminary decision, at a time and in a manner to be established in the local ordinance, with the time to request a quasi-judicial hearing running from the issuance of the written preliminary decision; the local government, however, is not bound by the preliminary decision. A party may request a hearing to challenge or support a preliminary decision.

(c) The local process must provide an opportunity for participation in the process by an aggrieved or adversely affected party, allowing a reasonable time for the party to prepare and present a case for the quasi-judicial hearing.

(d) The local process must provide, at a minimum, an opportunity for the disclosure of witnesses and exhibits prior to hearing and an opportunity for the depositions of witnesses to be taken.

(e) The local process may not require that a party be represented by an attorney in order to participate in a hearing.

(f) The local process must provide for a

quasi-judicial hearing before an impartial special master who is an attorney who has at least 5 years' experience and who shall, at the conclusion of the hearing, recommend written findings of fact and conclusions of law. The special master shall have the power to swear witnesses and take their testimony under oath, to issue subpoenas and other orders regarding the conduct of the proceedings, and to compel entry upon the land. The standard of review applied by the special master in determining whether a proposed development order is consistent with the comprehensive plan shall be strict scrutiny in accordance with Florida law.

(g) At the quasi-judicial hearing, all parties must have the opportunity to respond, to present evidence and argument on all issues involved which are related to the development order, and to conduct cross-examination and submit rebuttal evidence. Public testimony must be allowed.

(h) The local process must provide for a duly noticed public hearing before the local government at which public testimony is allowed. At the quasi-judicial hearing, the local government is bound by the special master's findings of fact unless the findings of fact are not supported by competent substantial evidence. The governing body may modify the conclusions of law if it finds that the special master's application or interpretation of law is erroneous. The governing body may make reasonable legal interpretations of its comprehensive plan and land development regulations without regard to whether the special master's interpretation is labeled as a finding of fact or a conclusion of law. The local government's final decision must be reduced to writing, including the findings of fact and conclusions of law, and is not considered rendered or final until officially date-stamped

by the city or county clerk.

(i) An ex parte communication relating to the merits of the matter under review may not be made to the special master. An ex parte communication relating to the merits of the matter under review may not be made to the governing body after a time to be established by the local ordinance, which time must be no later than receipt of the special master's recommended order by the governing body.

(j) At the option of the local government, the process may require actions to challenge the consistency of a development order with land development regulations to be brought in the same proceeding.

~~(4) As a condition precedent to the institution of an action pursuant to this section, the complaining party shall first file a verified complaint with the local government whose actions are complained of setting forth the facts upon which the complaint is based and the relief sought by the complaining party. The verified complaint shall be filed no later than 30 days after the alleged inconsistent action has been taken. The local government receiving the complaint shall respond within 30 days after receipt of the complaint. Thereafter, the complaining party may institute the action authorized in this section. However, the action shall be instituted no later than 30 days after the expiration of the 30-day period which the local government has to take appropriate action. Failure to comply with this subsection shall not bar an action for a temporary restraining order to prevent immediate and irreparable harm from the actions complained of.~~

(5) Venue in any cases brought under this section shall lie in the county or counties where the actions or

inactions giving rise to the cause of action are alleged to have occurred.

(6) The signature of an attorney or party constitutes a certificate that he or she has read the pleading, motion, or other paper and that, to the best of his or her knowledge, information, and belief formed after reasonable inquiry, it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or for economic advantage, competitive reasons or frivolous purposes or needless increase in the cost of litigation. If a pleading, motion, or other paper is signed in violation of these requirements, the court, upon motion or its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

(7) In any proceeding ~~action~~ under subsection (3) or subsection (4)~~this section~~, no settlement shall be entered into by the local government unless the terms of the settlement have been the subject of a public hearing after notice as required by this part.

(8) In any proceeding ~~suit~~ under subsection (3) or subsection (4)~~this section~~, the Department of Legal Affairs may intervene to represent the interests of the state.

(9) Neither subsection (3) nor subsection (4) relieves the local government of its obligations to hold public hearings as required by law.

Section 39. Subsection (6) is added to section 163.3194, Florida Statutes to read:

163.3194 Legal status of comprehensive plan.--

(1)(a) After a comprehensive plan, or element or portion thereof, has been adopted in conformity with this act, all development undertaken by, and all actions taken in regard to development orders by, governmental agencies in regard to land covered by such plan or element shall be consistent with such plan or element as adopted.

(b) All land development regulations enacted or amended shall be consistent with the adopted comprehensive plan, or element or portion thereof, and any land development regulations existing at the time of adoption which are not consistent with the adopted comprehensive plan, or element or portion thereof, shall be amended so as to be consistent. If a local government allows an existing land development regulation which is inconsistent with the most recently adopted comprehensive plan, or element or portion thereof, to remain in effect, the local government shall adopt a schedule for bringing the land development regulation into conformity with the provisions of the most recently adopted comprehensive plan, or element or portion thereof. During the interim period when the provisions of the most recently adopted comprehensive plan, or element or portion thereof, and the land development regulations are inconsistent, the provisions of the most recently adopted comprehensive plan, or element or portion thereof, shall govern any action taken in regard to an application for a development order.

(2) After a comprehensive plan for the area, or element or portion thereof, is adopted by the governing body, no land development regulation, land development code, or amendment thereto shall be adopted by the governing body until such regulation, code, or amendment has been referred either to the local planning agency or to a separate land development

regulation commission created pursuant to local ordinance, or to both, for review and recommendation as to the relationship of such proposal to the adopted comprehensive plan, or element or portion thereof. Said recommendation shall be made within a reasonable time, but no later than within 2 months after the time of reference. If a recommendation is not made within the time provided, then the governing body may act on the adoption.

(3)(a) A development order or land development regulation shall be consistent with the comprehensive plan if the land uses, densities or intensities, and other aspects of development permitted by such order or regulation are compatible with and further the objectives, policies, land uses, and densities or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government.

(b) A development approved or undertaken by a local government shall be consistent with the comprehensive plan if the land uses, densities or intensities, capacity or size, timing, and other aspects of the development are compatible with and further the objectives, policies, land uses, and densities or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government.

(4)(a) A court, in reviewing local governmental action or development regulations under this act, may consider, among other things, the reasonableness of the comprehensive plan, or element or elements thereof, relating to the issue justiciably raised or the appropriateness and completeness of the comprehensive plan, or element or elements thereof, in relation to the governmental action or development regulation under consideration. The court may consider the relationship

of the comprehensive plan, or element or elements thereof, to the governmental action taken or the development regulation involved in litigation, but private property shall not be taken without due process of law and the payment of just compensation.

(b) It is the intent of this act that the comprehensive plan set general guidelines and principles concerning its purposes and contents and that this act shall be construed broadly to accomplish its stated purposes and objectives.

(5) The tax-exempt status of lands classified as agricultural under s. 193.461 shall not be affected by any comprehensive plan adopted under this act as long as the land meets the criteria set forth in s. 193.461.

(6) If a proposed solid waste management facility is permitted by the Department of Environmental Protection to receive materials from the construction or demolition of a road or other transportation facility, a local government may not deny an application for a development approval for a requested land use that would accommodate such a facility, provided the local government previously approved a land use classification change to a local comprehensive plan or approved a rezoning to a category allowing such land use on the parcel, and the requested land use was disclosed during the previous comprehensive plan or rezoning hearing as being an express purpose of the land use changes.

========== T I T L E A M E N D M E N T ==========

And the title is amended as follows:

On page 5, line 7 after the semicolon,

insert:

amending s. 163.3174, F.S.; requiring that the membership of all local planning agencies or equivalent agencies that review comprehensive plan amendments and rezonings include a nonvoting representative of the district school board; creating s. 163.31776, F.S.; requiring certain local governments and school boards to enter into a public schools interlocal agreement; providing a schedule; providing for the content of the interlocal agreement; providing a waiver procedure associated with school districts having decreasing student population; providing a procedure for adoption and administrative challenge; providing sanctions for the failure to enter an interlocal agreement; amending s. 235.19, F.S.; revising certain site planning and selection criteria; amending s. 235.193, F.S.; requiring school districts to enter certain interlocal agreements with local governments; providing a schedule; providing for the content of the interlocal agreement; providing a waiver procedure associated with school districts having decreasing student population; providing a procedure for adoption and administrative challenge; providing sanctions for failure to enter an agreement; providing legislative intent as to pending litigation and associated appeals; providing a legislative finding that the act is a matter of great public importance;

amending s. 163.3215, F.S.; revising the methods for challenging the consistency of a development order with a comprehensive plan; redefining the term "aggrieved or adversely affected party"; amending s. 163.3194, F.S.; providing that a local government shall not deny an application for a development approval for a requested land use for certain approved solid waste management facilities that have previously received a land use classification change allowing the requested land use on the same property;